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Dated: September 10, 2008 Signature:

Shawn P. Foley
(Shawn P. Foley)

Docket No.: SAMSF 3.3-002
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Coggin et al.

Application No.: 10/523,277

Group Art Unit: 1643

Filed: September 22, 2005

Examiner: C. H. Yaen

For: CANCER VACCINES CONTAINING
EPITOPES OF ONCOFETAL ANTIGEN

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This communication is in response to the Office Communication mailed July 10, 2008.

According to the Communication, Claim 1 is generic to disclosed patentably distinct species SEQ ID NOS:6-10, 15-19 and 20, on the ground that they are independent or distinct in terms of having mutually exclusive characteristics, and are not obvious variants of each other. Accordingly, Applicant has been requested to elect a single disclosed species for prosecution on the merits.

In a telephone conference conducted on September 8, 2008, the undersigned respectfully pointed out to the Examiner that Claim 1 is actually directed to a "plurality" of oncofetal antigen epitopes that specifically stimulate T-cytotoxic lymphocytes. Accordingly, the Examiner agreed, *sua sponte*, to modify the requirement to include an election of a second species of OFA epitope that specifically stimulates T-cytotoxic lymphocytes.

In response to these requirements, Applicants hereby

elect the OFA sequences defined by residues 80-88 and 155-163, which are disclosed in page 23, lines 12 and 26 respectively.

During the aforementioned telephone conference, the undersigned also brought to the Examiner's attention the fact that dependent Claims 7 and 9 recite the further presence of "at least one" and "at least two" OFA epitopes that specifically stimulate T helper lymphocytes, respectively. Here too, the Examiner agreed *sua sponte* to modify the requirement to further include elections of two species of OFA epitopes that specifically stimulate T helper lymphocytes.

In response, Applicants hereby elect the sequences defined by OFA residues 229-238 and 285-294, disclosed in the present specification as SEQ ID NOS:16 and 20 respectively.

Claims 1-19 and 21-24 read on the four elected species.

All elections are made with traverse. The Office Communication is devoid of any explanation in support of the allegation that examination of the claims without any such requirement for an election of species, would impose an undue examination and search burden upon the Office. For example, although it has been alleged that the species of (OFA epitopes) require a different field of search, there is no explanation as to how the actual class/subclasses differ from species to species.

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In view of the foregoing, reconsideration and withdrawal of the election of species requirement are respectfully requested.

Dated: September 10, 2008

Respectfully submitted,

By Shawn P. Foley
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